

NOTICE PUBLICATION/REGULATIONS SUBMISSION

CERT

(See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 01-09)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2010-0721-05 E	REGULATORY ACTION NUMBER 2010-1130-030	EMERGENCY NUMBER
For use by Office of Administrative Law (OAL) only			
NOTICE		REGULATIONS	

ENDORSED FILE
IN THE SET FILE 6

2011 JAN 11 PM 4:

John Brown
SECRETARY OF STATE

AGENCY WITH RULEMAKING AUTHORITY

Department of Consumer Affairs (DCA), Bureau of Automotive Repair (BAR)

AGENCY FILE NUMBER (if any)

2008_205

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE Enhanced Fleet Modernization Program		TITLE(S) 16	FIRST SECTION AFFECTED 3394.1	2. REQUESTED PUBLICATION DATE July 23, 2010
3. NOTICE TYPE <input checked="" type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON Steven Hall	TELEPHONE NUMBER (916) 255-2135	FAX NUMBER (Optional) (916) 255-1369
OAL USE ONLY	ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 2010, 307	PUBLICATION DATE 7-23-2010

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Enhanced Fleet Modernization Program	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S) 2010-0721-05 E
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)
ADOPT 3394.7
AMEND 3394.1, 3394.4, 3394.5, 3394.6
TITLE(S) 16
REPEAL

3. TYPE OF FILING

<input type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input checked="" type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> Other (Specify) _____		

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)
8/9/2010 - 8/27/20105. EFFECTIVE DATE OF CHANGES (Gov. Code, §§11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)
☒ Effective 30th day after filing with Secretary of State ☐ Effective on filing with Secretary of State ☐ §100 Changes Without Regulatory Effect ☐ Effective other (Specify) _____

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input checked="" type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input type="checkbox"/> Other (Specify) _____		

7. CONTACT PERSON Steven Hall	TELEPHONE NUMBER (916) 255-2135	FAX NUMBER (Optional) (916) 255-1369	E-MAIL ADDRESS (Optional) steven.hall@dca.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE Brian J. Stiger	DATE 11/24/10
TYPED NAME AND TITLE OF SIGNATORY Brian J. Stiger, Acting Director, Department of Consumer Affairs	

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ENDORSED APPROVED

JAN 11 2011

Office of Administrative Law

BUREAU OF AUTOMOTIVE REPAIR
ORDER OF ADOPTION

The Bureau of Automotive Repair hereby adopts the following regulation in Article 11 of Division 33 of Title 16 of the California Code of Regulations as follows:

- (1) Amend Section 3394.1 of Article 11, Chapter 1, Division 33, Title 16, California Code of Regulations, to read as follows:

§ 3394.1. Purpose and Components of the Consumer Assistance Program.

The purpose of the Consumer Assistance Program (CAP) is to improve California air quality. Vehicle owners, who meet eligibility requirements, are offered the following:

- (a) Payment for voluntarily retiring from operation a motor vehicle.
- (b) Financial assistance to make emissions-related repairs to a vehicle that fails a smog check inspection.

Note: Authority cited: Sections 44000, 44001.3, 44001.5, 44002 and 44091, Health and Safety Code. Reference: Sections 44011, 44062.1, 44090, 44091, 44092, 44093, 44094, 44095 and 44125, Health and Safety Code.

- (2) Amend Section 3394.4 of Article 11, Chapter 1, Division 33, Title 16, California Code of Regulations, to read as follows:

§ 3394.4. Eligibility Requirements.

(a) In order to participate in the Consumer Assistance Program, a person must meet the following requirements, as applicable:

- (1) Be the registered owner of an eligible vehicle who has paid all appropriate registration fees for the vehicle with the Department of Motor Vehicles.
- (2) Under the Repair Assistance option, the vehicle owner has not previously received financial assistance for the repair of the same vehicle.
- (3) Under the Repair Assistance option that is based on a person's income level:

(A) Have a household income that is less than or equal to two hundred twenty-five percent (225%) of the federal poverty guidelines, as published annually by the United States Department of Health and Human Services; and

(B) Spend a minimum co-payment of twenty dollars (\$20) on emissions-related repairs at a licensed smog check test-and-repair station. Money spent to correct tampered emissions control systems or to make a vehicle testable shall not be included in the co-payment.

(4) Under the Repair Assistance option that is based on a person's vehicle being directed to a Test-Only or Gold Shield station to have its smog check inspection, as indicated on the Department of Motor Vehicles' registration renewal notice, spend a minimum co-payment of one hundred dollars (\$100) on emissions-related repairs at a licensed smog check test-and-repair station. Money spent to correct tampered emissions control systems or to make a vehicle testable shall not be included in the co-payment.

(5) Under the Vehicle Retirement option:

(A) Not have retired another vehicle through the Smog Check Consumer Assistance Program within a preceding twelve-(12) month period; and

(B) A vehicle owner who is a joint owner of a vehicle may not retire more than two (2) vehicles through the Consumer Assistance Program within a twelve-(12) month period; and

(C) An individual must be the registered owner of the vehicle with vehicle title issued in their name.

(b) In order to qualify for participation in any option of the Consumer Assistance Program, a vehicle must be a motor vehicle that is required biennially to obtain a certificate of compliance pursuant to Section 44011 of the Health and Safety Code and has failed a biennial smog check inspection, as required pursuant to subdivision (a) of Section 44011.

(c) In order to qualify for participation in the Vehicle Retirement option of the Consumer Assistance Program, at the time of application, a vehicle must:

- (1) Be currently registered with the Department of Motor Vehicles; or,
- (2) Be currently operating under a repair cost waiver or economic hardship extension issued by the Bureau of Automotive Repair; or,
- (3) Be currently operating under a Temporary Operating Permit issued by the Department of Motor Vehicles; or,

(4) Beginning July 1, 2009, not have a registration that has been expired for more than one hundred twenty (120) days after the date the application is postmarked; and

(5)(A) Have been continuously registered as an operable vehicle with the Department of Motor Vehicles for the twenty-four (24) months immediately preceding the current registration expiration date; or

(B) Vehicle is placed in non-operational status pursuant to Vehicle Code Section 4604, et seq., for a total of 60 or fewer days for the 24 months immediately preceding the registration expiration date; or

(C) Vehicle registration has lapsed for less than 121 days for the 24 months immediately preceding the registration expiration date.

(6) Beginning July 1, 2009, have failed a biennial smog check inspection no later than one hundred twenty (120) days after the expiration of the vehicle's most current renewal of registration with the Department of Motor Vehicles, provided that the registration renewal date is not more than one hundred twenty (120) days prior to the postmarked date on the application, and that the failure is for causes other than an ignition timing adjustment; or a failed gas cap functional test; and

(7) Be a passenger vehicle, truck, sports utility vehicle (SUV) or van, with a gross vehicle weight rating of 10,000 pounds or less; and

(8) Pass a visual inspection conducted by the Bureau or its representative verifying that:

(A) All doors are present;

(B) The hood lid is present;

(C) The dashboard is present;

(D) The windshield is present;

(E) At least one side window glass is present;

(F) The driver's seat is present;

(G) At least one bumper is present;

(H) The exhaust system is present;

(I) All side and/or quarter panels are present; and

(J) At least one headlight, one taillight, and one brake light are present; and

(9) Pass an operational inspection conducted by the Bureau or its representative verifying that:

(A) The vehicle is driven under its own power to an approved dismantler site;

(B) The vehicle's engine starts readily through ordinary means without the use of starting fluids or external booster batteries;

(C) The drivability of the vehicle is not affected by any body, steering, or suspension damage;

(D) The vehicle is able to drive forward a minimum distance of ten (10) yards under its own power, and

(E) The interior pedals are operational.

(d) This section does not apply to the Enhanced Fleet Modernization Program.

Note: Authority cited: Sections 44001.3, 44001.5 and 44002, Health and Safety Code; and Section 9882, Business and Professions Code.
Reference: Sections 44005, 44010.5, 44011, 44012, 44014.7, 44015, 44017, 44017.1, 44037.1, 44062.1, 44091, 44092, 44093, 44094, 44095 and 44125, Health and Safety Code.

(4) Amend Section 3394.5 of Article 11, Chapter 1, Division 33, Title 16, California Code of Regulations, to read as follows.

§ 3394.5. Ineligible Vehicles

(a) The following vehicles are not eligible for participation in the Consumer Assistance Program:

- (1) A vehicle undergoing a transfer of ownership.
- (2) A vehicle being initially registered in California.
- (3) A direct import vehicle being initially registered in California.
- (4) A vehicle powered by alternate fuel, unless a Bureau Referee label is posted on the vehicle.
- (5) A specially constructed vehicle, unless a Bureau Referee label is posted on the vehicle.
- (6) A dismantled or total loss salvaged vehicle that has not been re-registered pursuant to Section 11519 of the Vehicle Code.
- (7) A vehicle operated by a fleet licensed and registered pursuant to Section 44020 of the Health and Safety Code.
- (8) A vehicle registered to a non-profit organization or a business.
- (9) A vehicle that is untestable on a BAR-97 Emissions Inspection System (EIS).
- (10) Under the Repair Assistance option, a vehicle with a tampered emissions control system.

(11) Under the Vehicle Retirement option, a vehicle with a tampered emissions control system where the tampered system is the cause for failing the smog check inspection.

(b) This section does not apply to the Enhanced Fleet Modernization Program.

Note: Authority cited: Sections 44000, 44001.3, 44001.5, 44002, 44091, 44092, 44093, 44094 and 44095, Health and Safety Code. Reference: Sections 44011, 44015, 44017, 44020, 44037.1, 44091, 44092, 44093, 44094, 44095 and 44125, Health and Safety Code; and Section 11519, Vehicle Code.

(5) Amend Section 3394.6 of Article 11, Chapter 1, Division 33, Title 16, California Code of Regulations, to read as follows:

§ 3394.6. Application and Documentation Requirements for the Consumer Assistance Program.

(a) In order to participate in the Consumer Assistance Program, the applicant shall meet the requirements pursuant to 3394.4 et seq. and submit a completed application, 08_022 CAP/APP (0809/10), which is hereby incorporated by reference, and required documentation to the Department or its designee with original signature(s).

(b) The application must include copies of the following documents, as applicable:

(1) Under the Repair Assistance option, copies of any invoices for emissions-related repairs performed prior to applying to the Consumer Assistance Program, for the sole purpose of crediting the consumer co-payment required under section 3394.4.

(2) Under the Repair Assistance option, if applying based on income level, an applicant must provide any one of the following documents:

(A) A letter from the issuing agency stating that the applicant receives any of the following benefits:

1. Supplemental Security Income (SSI);
2. State Supplemental Payments (SSP);
3. Temporary Assistance for Needy Families (TANF);
4. California Work Opportunity and Responsibility to Kids (CalWORKS);
5. General Assistance (GA) or General Relief (GR); or
6. Publicly subsidized medical coverage, such as or Medi-Cal; or

7. The applicant must show proof of household income by providing one of the following:

- (i) The applicant's state or federal income tax form (Form 540 or 1040) filed in the most recent tax year; or
- (ii) A paycheck stub reflecting year-to-date earnings, hours worked, and hourly wage of the applicant; or
- (iii) An unemployment, veterans benefits, or disability check issued to the applicant within the last sixty (60) days; or
- (iv) A monthly bank statement issued to the applicant within the last sixty (60) days reflecting direct deposit of Social Security or Public Assistance; or
- (v) Other documentation satisfactory to the Department.

Note: Authority cited: Sections 44001.5, 44002, 44091 and 44094, Health and Safety Code; and Section 9882, Business and Professions Code. Reference: Sections 44001.3, 44005, 44010.5, 44011, 44012, 44014, 44014.2, 44015, 44017, 44017.1, 44062.1, 44092, 44093, 44094 and 44095, Health and Safety Code.

(6) Add Section 3394.7 of Article 11, Chapter 1, Division 33, Title 16, California Code of Regulations, to read as follows:

§ 3394.7. Application and Documentation Requirements for the Enhanced Fleet Modernization Program.

In order to participate in the Enhanced Fleet Modernization Program, the applicant shall meet the requirements pursuant to Title 13, Chapter 13, Article 2, California Code of Regulations, submit a completed application, 08_022 CAP/APP (~~0709~~/10), which is hereby incorporated by reference, and required documentation to the Department or its designee with original signature(s).

Note: Authority cited: Sections 44001.5 and 44125, Health and Safety Code; and Section 9882, Business and Professions Code. Reference: Section 44126, Health and Safety Code.

SHERRY MEHL, Chief
Bureau of Automotive Repair